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and Professional Regulation

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## **ATTORNEY GENERAL MADIGAN SUES TWO DEBT SETTLEMENT FIRMS**

### ***Attorney General, IDFPR Warn Consumers About Firms Promising to Reduce Credit Card Debt***

Chicago – Attorney General Lisa Madigan and Acting Secretary of the Illinois Department of Financial and Professional Regulation (IDFPR) Michael T. McRaith warned consumers facing significant credit card debt about the risks of debt settlement offers as she announced two lawsuits filed against debt settlement firms. Attorney General Madigan's lawsuits allege that these companies engage in deceptive marketing practices, charge excessive fees and do little or nothing to improve consumers' financial standing.

"Too many people who find themselves under a mountain of credit card debt are tempted to turn to debt settlement companies that often worsen their financial problems," Madigan said. "After being enticed by these companies' promises to reduce debt, consumers too often end up owing more than their original credit card debt."

"We congratulate the Attorney General for her important work on behalf of consumers," McRaith said. "Illinois families always need reliable sources of financial advice, but the current crisis emphasizes the need for our consumers to work with licensed debt counselors subject to regulatory oversight. In bad times and good times, IDFPR vigorously will pursue any unlicensed debt settlement company looking to prey upon our communities."

Madigan said her office has seen an increase in advertisements for debt settlement companies that promise to significantly reduce consumers' credit card debt and provide them with an alternative to bankruptcy protection. Typically, after consumers enroll in debt settlement programs, the companies charge excessive upfront fees and advise consumers to stop paying their credit card bills. Despite this advice, the debt settlement companies fail to begin negotiations with consumers' credit card companies for several months. As a result, credit card companies add fees and penalties to consumers' credit card balances and often even begin collection efforts to recoup the debt, all of which puts the consumers in a worse financial situation. In many instances, while consumers were enrolled in debt settlement programs, credit card companies have sued the consumers to collect the balance on the consumers' accounts.

Madigan filed two lawsuits in Sangamon County today challenging these types of deceptive practices. Madigan sued the following defendants:

- SDS West Corporation, an Aliso Viejo, Calif.-based debt settlement agency; Bruce Hood, the Chief Operating Officer of SDS West; SDS West's Chief Executive Officer, Raymond Dorso; Nationwide Support Services, Inc., an Irvine, Calif.-based debt settlement servicer; and Joanne Garneau, President of Nationwide Support Services.
- Debt Relief USA, Inc., a debt settlement firm based in Addison, Texas and Kelly E. Reilly, the President of Debt Relief USA.

### **SDS West Corporation and Nationwide Support Services**

According to Madigan's complaint, SDS West and its business partner Nationwide Support Services inform consumers that their "debt mediation" services will help to reduce consumers' debt by nearly 50 percent and that consumers will be debt-free in 12 to 36 months. SDS West primarily markets the business partnership's debt settlement services, while Nationwide Support Services allegedly conducts the settlement negotiations with creditors. Madigan's complaint alleges that most consumers are unaware that Nationwide, not SDS West, performs the actual negotiations on their behalf.

The defendants tout their services as universally better than credit counseling and bankruptcy protection, and they allegedly promise consumers that they will contact all the consumers' credit card companies and negotiate substantially reduced settlements of the outstanding credit card balances. From 2006 to the present, hundreds of Illinois consumers have enrolled in the defendants' debt settlement program.

When consumers enroll in the program, they allegedly are instructed to stop making payments to the credit card companies and, instead, make monthly payments to the defendants' program in order to build up a lump sum for use by Nationwide Support Services in negotiating a settlement with the credit card companies. However, the first payments go toward a substantial fee of approximately 15 percent of the consumers' total credit card debt. Consumers also are charged a monthly \$50 maintenance fee. Madigan's complaint alleges that consumers did not understand (1) that their monthly payments would be used to pay fees before any performance of services on their behalf, and (2) that it takes several months to accumulate a lump sum payment to begin negotiating a payoff with the credit card companies.

### **Debt Relief USA**

In the second lawsuit, Madigan alleges that Debt Relief USA promised consumers that its services would help reduce credit card debt by 40 to 60 percent and that consumers could be debt-free in as little as 36 months. However, according to the complaint, Debt Relief USA failed to negotiate substantial reductions on most consumers' accounts. Madigan's complaint alleges that most Illinois consumers dropped out of the program before Debt Relief USA settled any debt on their behalf, but after the consumers paid Debt Relief USA's nonrefundable fees. From 2005 to 2008, at least 470 Illinois consumers enrolled in the Debt Relief USA program.

When consumers enroll in the Debt Relief USA program, the defendants allegedly instruct consumers to stop paying their credit card bills and, instead, pay a monthly fee to Debt Relief

USA based on how much they owe. The defendants allegedly apply the first several monthly payments toward Debt Relief USA's upfront fee of up to 10 percent of the consumer's credit card debt. The defendants also apply each monthly payment toward Debt Relief USA's monthly maintenance fee of \$29.95 to \$39.95. The remainder of the monthly payment goes into an escrow account until enough money accrues to make a settlement offer to the credit card company, which often takes several months. During this time, the complaint alleges, Debt Relief USA fails to attempt to settle any debts on consumers' behalf. In addition, when Debt Relief USA reaches a settlement on one of the consumer's accounts, the company charges the consumer a settlement fee that is equal to 13 percent of the amount by which Debt Relief USA was able to reduce the consumer's debt through settlement negotiations.

In both cases, Madigan's complaints allege that the defendants have violated the Illinois Consumer Fraud and Deceptive Business Practices Act by misrepresenting the services they can provide to consumers and the impact that those services will have on consumers' credit. Each complaint asks the court to enter a permanent injunction barring the defendants from engaging in debt settlement in Illinois and to order the defendants to pay restitution for aggrieved consumers, civil penalties of \$50,000 for violating the Consumer Fraud Act, and an additional \$50,000 for each violation committed with the intent to defraud.

Assistant Attorney General Rebecca Pruitt is handling the cases for Madigan's Consumer Fraud Bureau in Springfield.

Madigan encouraged consumers in financial trouble to consider credit counseling instead of debt settlement services. The Attorney General advised consumers to look for credit counseling services that charge modest fees and provide true financial and budget counseling based on a consumer's personal circumstances. In some instances, credit counselors may recommend that a consumer consult a debt management service, which will set up a debt payment plan based on the consumer's income, expenses, and debts. The consumer then makes one monthly payment which the debt management service provider then distributes to the consumer's creditors. Consumers who use a debt management services provider should know and follow these tips:

- Ask for and review the terms and conditions of the service in writing before agreeing to the service. Ask about all fees—the amounts, whether they must be paid upfront, if they are refundable—and what exact services are provided.
- Debt management service providers are regulated by, and must obtain a license from, the Illinois Department of Financial and Professional Regulation. Consult that agency's Web site at [http://www.idfpr.com/dfi/ccd/licensees/Debt\\_Management\\_Licensees.HTM](http://www.idfpr.com/dfi/ccd/licensees/Debt_Management_Licensees.HTM) for a list of credit counseling companies licensed in Illinois. Licensed credit counseling firms can charge up to \$50 for an initial fee and up to \$50 per month for services.
- Check with the Attorney General's Consumer Fraud Hotline and the Better Business Bureau to determine if any consumers filed complaints against the company. The Attorney General's consumer fraud hotlines are:

**Chicago Consumer Fraud Hotline:** 1-800-386-5438

**Springfield Consumer Fraud Hotline:** 1-800-243-0618

**Carbondale Consumer Fraud Hotline:** 1-800-243-0607

**Spanish Language Hotline:** 1-866-310-8398

